



**DEBRA BOWEN** | SECRETARY OF STATE | STATE OF CALIFORNIA  
1500 11th Street, 6th floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | [www.sos.ca.gov](http://www.sos.ca.gov)

January 13, 2012

The Honorable Mark Leno, Chair  
Senate Budget and Fiscal Review Committee  
State Capitol, Room 5035  
Sacramento, CA 95814

The Honorable Robert Blumenfield, Chair  
Assembly Budget Committee  
State Capitol, Room 6026  
Sacramento, CA 95814

Dear Chairmen Leno and Blumenfield:

Attached please find a copy of a status report on the Help America Vote Act (HAVA) activities carried out over the past calendar year, provided pursuant to budget control language adopted under Item Number 0890-001-0890, Provision 4 of the 2009-10 Budget.

The Secretary of State reached several milestones over the past year, including:

- Updating California's State Plan for HAVA implementation, which entitles California to receive \$31.9 million in additional funding earmarked exclusively for HAVA requirements
- Concluding a federal audit of the HAVA program stretching back to its inception that resulted in no outstanding issues to be resolved
- Creating a ground-breaking voting system data collection program through the enactment of SB 1404 (Pavley), Chapter 333, Statutes of 2010, to identify all known problems with voting systems that will serve as a national model

I hope you will find the report informative and helpful in understanding the Secretary of State's progress to date on HAVA activities, as well as the upcoming challenges. If there are any questions from your office about this report, please feel free to contact me at (916) 653-0296.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Reynolds'.

Chris Reynolds  
Deputy Secretary of State, HAVA Activities

cc: The Honorable Robert Huff, Vice Chair, Senate Budget and Fiscal Review  
Committee  
The Honorable Jimi Nielsen, Vice Chair, Assembly Budget Committee  
The Honorable Paul Fong, Assembly Elections and Redistricting Committee  
The Honorable Lou Correa, Chair, Senate Elections, Reapportionment and  
Constitutional Amendments Committee  
The Honorable Joan Buchanan, Chair Assembly Budget Subcommittee, State  
Administration  
The Honorable Michael Rubio, Chair, Senate Budget Subcommittee, State  
Administration  
Mr. Mac Taylor, Legislative Analyst  
Ms. Ana Matosantos, Director, Department of Finance  
Ms. Diane Boyer-Vine, Legislative Analyst

## **Status Report: Help America Vote Act of 2002 (HAVA) related activities**

Pursuant to Budget Control Language of 2011-12, the Secretary of State is required to report by January 15<sup>th</sup> of each year on the following activities, until the Statewide Voter Registration System (VoteCal), required by Section 303 of HAVA, is fully implemented. This status report is required to address the following areas:

- Poll monitoring;
- The expected General Fund exposure for completed HAVA compliance, including the expected costs of administration; and
- Completion of the VoteCal system, including information on the costs associated with the use of contractors and consultants, the names of the contractors and consultants used, and the purposes for which contractors and consultants were used.

The information contained herein comprises the sixth annual status report.

### **Poll Monitoring**

Election Day Observation (poll monitoring) – Election Day Observation was not conducted during 2011, as there were no statewide federal elections. Reports on the Election Day Observation programs previously conducted are posted on the Secretary of State's website at

[www.sos.ca.gov/voting-systems/oversight/eday-reports.htm](http://www.sos.ca.gov/voting-systems/oversight/eday-reports.htm)

### **Expected General Fund exposure for completed HAVA compliance (including expected costs of administration)**

#### **➤ Voting Systems**

The voting system upgrade contracts for California's 58 counties provide reimbursement to counties for the cost to purchase or lease voting systems to meet federal voting system standards or to upgrade local voting systems. No General Fund exposure is expected for current or future activities relating to voting system requirements.

#### **➤ Statewide Voter Registration System (VoteCal)**

An "interim solution" to meet the requirements of Section 303 of HAVA for a statewide voter registration system was implemented pursuant to a Memorandum of Agreement (MOA) executed with the U.S. Department of Justice (US DOJ) – the enforcement authority for HAVA – on November 2, 2005. The

interim solution voter registration system is still in use at this time. No General Fund exposure is expected for the activities related to the interim solution.

Under the terms of the MOA, the Secretary of State is required to pursue a long-term solution to meeting HAVA Section 303 requirements. The Secretary of State is now in the procurement phase of that project, called VoteCal. Additional details about the project are provided later in this report.

➤ Polling Place Accessibility

The Secretary of State has undertaken projects to improve polling place accessibility pursuant to a grant program conducted under HAVA Section 261, which is administered by the federal Department of Health and Human Services (DHHS). Under a \$211,534 contract with the Department of Rehabilitation (DOR), the state agency with expertise on physical accessibility standards for buildings, the Secretary of State developed and published in 2010 updated polling place accessibility guidelines required by the federal Voting Accessibility for the Elderly and Handicapped Act of 1984 and referenced in California Elections Code section 12280. This effort, conducted in collaboration with county elections officials and the Secretary of State's Voting Accessibility Advisory Committee (VAAC) was followed by a statewide training program for county elections officials in how to adhere to the guidelines and accompanying checklist to assess accessibility of polling places in their counties. The response from counties was enthusiastic, and the Secretary of State was able to offer DHHS-funded grants of up to \$5,000 per county to be used for training and assessing polling place accessibility, or for purchasing supplies needed to remove or modify barriers to make polling places accessible.

In 2011, the Secretary of State continued the collaboration with DOR to create a series of DVD training programs to supplement the in-person training offered in 2010 and for use as stand-alone training sessions for polling place surveyors and poll workers in the counties. Because county elections officials expressed a high level of interest in sending additional staff to a second round of training courses, the Secretary of State extended the contract with DOR to plan a second round of training for counties in early 2012. This round of training will include intermediate classes for experienced county staff. In conjunction with this new program, counties will be able to apply for additional federal DHHS grant funding to underwrite polling place accessibility measures.

Additionally, counties continued to improve accessibility to voters with disabilities using funds from three competitive grant programs awarded in 2008, 2009, and 2011. Through these programs, \$3,815,331.90 was awarded to 29 counties with funding provided by the federal DHHS for use in categories specified by DHHS, including:

- Improving physical accessibility to polling places for voters with disabilities

- Improving access and participation by voters with disabilities
  - Training elections officials on promoting access and participation by voters with disabilities
  - Providing information on opportunities for participation to voters with disabilities
- Administration of the HAVA program

The following ongoing needs are associated with the administration of the HAVA program:

Internally, ongoing Secretary of State staffing costs are estimated at \$1.7 million for each of the next two fiscal years. This funding will support the staff working on HAVA activities, a portion of the cost of the voter hotline in use prior to each statewide federal election, and administrative support (budgeting, accounting, and contracting services) for:

- Tracking and implementing changes to federal voting system testing and certification protocols and voting system standards
- Activities related to further modifications to the statewide voter registration system project
- Review and payment of claims for reimbursement against voting system upgrade contracts and contracts executed to improve polling place accessibility
- Reporting to state and federal agencies as required
- Coordinating activities relating to audits of the HAVA program

While these near-term costs associated with HAVA implementation are a certainty, long-term estimates are difficult to project because they may be affected by evolving federal standards and programs, including new oversight activities.

**Completion of VoteCal (including information on the costs associated with the use of contractors and consultants, the names of contractors and consultants used, and the purposes for which contractors and consultants were used)**

As previously indicated, California achieved interim compliance with HAVA Section 303 requirements to establish a statewide voter registration system. However, under the MOA executed with the US DOJ, California is required to implement the long-term, fully compliant VoteCal project. In 2011, the Secretary of State initiated the procurement process for a primary contractor to provide a business solution for the project. The history of the VoteCal project to date includes:

- A Secretary of State Feasibility Study Report (FSR) for VoteCal was approved on April 14, 2006, and an updated Special Project Report (SPR) on VoteCal was issued August 15, 2007.
- A Request for Proposal to solicit vendor bids for VoteCal was issued on December 13, 2007. A solution-based procurement process, as provided for in state law, was used for the project.
- Potential bidders notified the Secretary of State by December 31, 2007, of the intent to bid on the project and thereafter engaged in a series of discussions with Secretary of State staff under the direction of Department of General Services (DGS) personnel in preparation for submission of a bid. During this process, in response to bidder questions and to clarify the RFP, addenda were issued.
- The final addendum to the RFP was issued on December 31, 2008, and a deadline for submission of bids was set for January 29, 2009.
- Under the direct supervision of DGS personnel, a team of evaluators analyzed three bids submitted against the pre-established criteria defined in the RFP. Of the three bids, only one vendor was deemed eligible to proceed to cost opening.
- A Notice of Intent to Award a contract was issued on April 24, 2009.
- As required by the state procurement process, a Special Project Report (SPR) describing the project in greater detail based upon the winning bid was completed and the SPR submitted to state control agencies, including the Department of Finance (DOF) and Office of the Chief Information Officer (OCIO) on June 23, 2009, which provided copies to the Legislature.
- Meetings with county representatives to describe the project, answer questions and receive input commenced on July 17, 2009. These communications continued, and will continue throughout the project lifecycle.
- The Legislature formally received the SPR on July 23, 2009, from the DOF, and approved the project on August 25, 2009.
- An amended Spending Plan requesting expenditure authority for VoteCal costs for the fiscal year (FY) 2009-10 was received by the Legislature from the DOF on August 6, 2009, and approved by the Legislature on August 25, 2009.
- The contract for the VoteCal project was fully executed with the winning bidder – Catalyst Consulting Group, Inc. (Catalyst) – on September 8, 2009.
- The project completed the Planning Phase – Phase I – on December 11, 2009.
- On April 7, 2010, Catalyst proposed a new deployment date that would complete the project in 2013. The Secretary of State (SOS) asked Catalyst to provide a more detailed schedule and approach before the SOS would consider the request. Catalyst's approach did not consider the network blackout dates. The SOS asked Catalyst to revise its schedule to

reflect these dates per the contract, which would result in deploying VoteCal in 2014.

- On April 19, 2010, the SOS determined Catalyst had not yet provided a performance bond as required by the contract. Additionally, the SOS and its independent project oversight consultant expressed concerns about Catalyst's performance, including its ability to meet contractual deadlines. The SOS began working with Catalyst to resolve these issues.
- On April 24, 2010, DGS emailed Catalyst a letter dated April 26, 2010, requesting that Catalyst submit the performance bond to DGS by April 30, 2010. (Performance bonds from vendors are issued to DGS by the surety company and sent directly to DGS by the vendor.)
- On April 27, 2010, DGS indicated to the SOS that DGS would lead the cure process to resolve these issues and transmit the cure letter outlining the issues to Catalyst.
- On April 29, 2010, Catalyst sent a letter to DGS indicating its attempts to secure the performance bond with the expectation it would take an additional 60 to 90 days – or between 9 and 10 months beyond the contractually required date.
- On May 3, 2010, DGS informed the SOS that the SOS would lead the cure process with Catalyst. When asked for policies or procedures to guide the SOS, DGS indicated it did not have any direction to provide to the SOS and that its legal counsel and procurement staff would not participate in the process.
- On May 4, 2010, the SOS sent Catalyst a letter with a requirement to resolve the issues identified above within 30 days and concurrently offered to meet with Catalyst to discuss the issues.
- On May 6, 2010, Catalyst responded to the cure letter stating it would need 120 days to secure a performance bond – 11 months beyond the contractually required date – but conditioned securing the performance bond on payment that could not be made until the bond was issued, per DGS direction to the SOS.
- Catalyst requested a meeting to discuss options, which eventually led to a discussion of negotiating termination of the contract. On May 21, 2010, Catalyst and the SOS mutually agreed to terminate Catalyst's contract.
- On July 19, 2010, the SOS submitted to the OCIO an SPR describing the project status based on the initial FSR for the VoteCal project. The SPR incorporated lessons learned to date, and provided an evaluation of project and HAVA requirements as noted above. The SPR must be approved by the state OCIO before an RFP can be issued to solicit bids.
- On July 23, 2010, the SOS submitted an Information Technology Procurement Plan (ITPP) to DGS. DGS approves all large information technology procurements in the State of California. An ITPP describes the procurement approach proposed by the requesting department. Approval for this ITPP was received on August 4, 2010. (This ITPP approval was moot, however, based on OCIO direction to reduce project scope as noted below.)

- In June and July, the VoteCal team met daily to review the scope requirements in an effort to clarify them. On July 26, 2010, the OCIO directed the SOS to reduce the project budget and schedule (and thus the scope).
- On August 3, 2010, the SOS submitted a revised SPR to OCIO that reflected OCIO's direction to reduce one-time costs and shorten the schedule. OCIO approved the SPR on August 31, 2010.
- On August 6, 2010, the SOS submitted a revised ITPP to DGS. The revised document reflected the reduction in budget and schedule (and therefore scope) directed by the OCIO in response to the July 2010 SPR. Approval of the ITPP was received on August 23, 2010.
- The SOS invited county elections officials to review the original RFP and provide input to the SOS on which requirements should remain in a new RFP that more narrowly focused project scope on voter registration and list maintenance requirements. Six county elections officials reviewed the requirements during August 24-26, 2010, meetings and provided input on each of the functional requirements.
- In September, the SOS team concluded its review and revision of the business and technical requirements.
- On October 29, 2010, the revised RFP was issued, and seven vendors indicated an interest in bidding on the project.
- In November and December 2010, bidders were allowed to ask questions and protest RFP requirements. Questions were answered with the information being made available via both DGS and SOS websites. No bidder formally protested any requirement.
- After receiving pre-qualification packages from bidders on January 24, 2011, DGS decided, on February 8, 2011, to exercise its authority to return bidder pre-qualification packages and reinitiated the RFP process. SOS worked closely with DGS during the months of March and April to resolve concerns relating to the terms of the RFP.
- On May 18, 2011, OCIO – now renamed California Technology Agency (CTA) – recommended the procurement process be discontinued, and that a Request for Information (RFI) be issued to address questions raised in December 2010, including discussions with vendors about the terms of the RFP. Further discussion among SOS, DGS, and CTA instead resulted in some material changes to the RFP that were published as addenda to the RFP on June 10, 2011.
- Bidders responded to the addenda with additional questions in July 2011, and responses to those questions were published on August 18, 2011.
- On August 26, 2011, bidders' protests to RFP requirements were received by DGS. Following review by DGS, an addendum to the RFP was published on September 22, 2011, in response to bidder protests. That addendum established a new September 30, 2011, deadline for submission of bidder pre-qualification packages.

- During the months of October, November, and December 2011, pursuant to state procurement procedures and under the direction of DGS, SOS held confidential discussions with bidders to discuss the terms of the RFP.

For the foreseeable future, there is a continuing need for internal Secretary of State staffing to accomplish tasks relating to HAVA Section 303 requirements to maintain the “interim solution” statewide voter registration system and to pursue the fully compliant VoteCal project, as required under the terms of the MOA with the US DOJ, including:

- Elections Division (program) support to maintain the interim solution voter registration system and to assist in planning for the fully compliant VoteCal voter registration system.
- Information Technology Division (technical) support to maintain the interim solution and to assist in planning for the fully-compliant VoteCal voter registration system.
- Administrative support (budgeting, accounting and contracting services) for activities related to planning and executing contracts for development and deployment of VoteCal.

Current costs for contractor and consultant needs to support the VoteCal project include:

- Project Management: A contract was issued for \$1,043,440 to Kiefer Consulting for services of Linda Wasik as project management consultant for fiscal years 2006-2008. Actual invoices under this contract, which expired June 30, 2009, totaled \$780,290. In July 2009, a contract was issued for \$308,752 to VIP Consulting for services of Fred Wood as a project management consultant through May 31, 2010. \$223,260 was expended under this contract, \$159,120 of it in 2010. In June 2010, a contract was issued for \$1,046,429 with VIP Consulting for services of a project management team consisting of Jonathan Kerhlikar, Mardell Hall, and headed by Kerry Washburn. This contract expired on December 31, 2011, and has been extended for the project duration. A total of \$971,658 was expended under this contract.
- Project administrator/librarian: A contract was issued for \$243,168 to COMSYS for services of Melissa Crowley from December 2007 through December 31, 2009. Actual invoices under this contract totaled \$226,950. In January 2010, a contract was issued to Net InComm through December 31, 2011, in the amount of \$283,710. In January 2011, the contract was extended through June 30, 2012, at no additional cost. Pat Melo performed the services under this contract in 2010, followed by Kathleen Cook in 2010-11. To date \$161,787.50 has been expended under this contract.
- Technical Architect: A contract was issued for \$328,455 to R Systems, Inc. for services of Pooja Deshmukh from November 2, 2009, through

June 30, 2011. A total of \$85,900 was paid under this contract before it expired. A new contract will be issued for these services in 2012.

- Required Independent Project Oversight Consulting: A contract was issued for \$762,900 to Continuity Consulting for services of Joan Rene, Tim Jacobs, and Christine Walker from May 2007 to December 31, 2009. Actual invoices under this contract totaled \$566,525. Effective January 1, 2010, a new contract has been issued to Meta Vista Consulting Group for \$98,550 for the services of Payson Hall and Rochelle Furtah through June 30, 2012. Payson Hall has been replaced by Michelle Colodzin. To date \$52,425 has been expended under this contract.
- Required Independent Verification and Validation (IV&V) Consulting: A contract was issued for \$846,715 with Information Integration Innovation & Associates (I Cubed) for services of Dr. Michael Cox, Arthur G. Mulligan, Al Pangelinan, and Paula Grose from May 2007 through December 31, 2010. Actual invoices totaled \$602,795 during the life of this contract. In March 2011, following a competitive bid process, a new contract in the amount of \$532,585 was issued to I Cubed for the services of Dr. Michael Cox, Arthur G. Mulligan, Al Pangelinan, and Aftab Mohammed. To date \$162,005 has been expended under this contract.
- A primary system integration vendor contract: A deliverables-based contract was signed September 8, 2009, for \$18,177,000 to Catalyst Consulting Group, Inc. (Catalyst) for a fully operational system. The bid included the services of Scott Hilkert, Don Westfall, Kurt Schwartz, Matt Benton, Kalyn Ferris, and Timothy Smith to serve in lead roles for the project. Actual invoices under this contract totaled \$1,869,666 for both 2009 and 2010. The contract was terminated on May 21, 2010. The SOS is currently in the process of securing system integration services.
- A contract for a Quality Assurance Manager was issued to Andes Consulting in March 2010 in the amount of \$386,840 for the services of Chris Moore through October 31, 2011. A total of \$26,790 was expended under this contract before it expired. A new contract will be issued for these services.
- Contracts with counties for participation in the design sessions have been executed in the amount of \$254,344. \$128,824 has been expended under these contracts.
- Additionally, contracts with counties that had to migrate to a different local election management system (EMS) that could be fully integrated into the VoteCal system were executed. A total of \$566,347 has been expended under these contracts. This represents a portion of the budgeted amount of \$2,698,920 for migration of some counties to a new EMS and for data conversion for all counties throughout the lifecycle of the project.
- Legal Services: \$56,454 was expended in 2011 to advise the SOS as the SOS prepared the revised RFP for publication.

Other contracts yet to be issued include:

- Web language translation: Projected costs are \$79,152 for fiscal years 2012-15.
- Security Auditor: Projected costs are \$40,000 for FY 2012-13.
- Systems Integrator Vendor: An RFP was issued on October 29, 2010. The budget will be determined by the chosen vendor's bid. In the latest approved SPR, dated August 3, 2010, \$18,177,000 was budgeted for this vendor per OCIO direction.
- EMS vendors for remediation services: Projected amount is \$5,493,638.
- Third-party back up and recovery services for the system will be needed.
- Contracts with all 58 counties will be executed for assistance in the deployment of the VoteCal solution. Projected amount: \$3,602,948.

Contracts with state departments are not included in this list.

The costs identified above are funded with federal HAVA money allocated to California. Long-term General Fund exposure for VoteCal operation and maintenance costs is difficult to project at this time with any certainty. Right now, the operation of the interim solution statewide voter registration system relies heavily on integration and synchronization with county EMSs. The costs to maintain and operate local EMSs are the responsibility of the county elections officials. The state will incur some future General Fund liability associated with the continued operation and maintenance of VoteCal at the point HAVA funding is no longer available. However, when that will occur depends on the cost of operation and maintenance and the cost of deploying the project itself.

This means, assuming that VoteCal comes in at the expected cost of \$53 million (including one year of operation and maintenance), more than \$20 million will be left in existing HAVA funds that could be used for VoteCal operation and maintenance. Given the current estimated cost of \$3.3 million per year in maintenance costs, this means existing HAVA funds could pay for up to six additional years of operation and maintenance before a General Fund request would be made.